

## **Article XII. General Provisions**

### **§ 12.01. Financial conflict of interest.**

(1) General standard. All town officials shall attempt to avoid an actual or perceived financial conflict of interest by abstention or disclosure. The Town of Kittery establishes these provisions in addition to those set forth in 30-A MRS§ 2605. (Added by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(2) Definitions. For the purposes of this § 12-01 the following definitions apply: (Amended by vote of the people 11-7-17)

Official means an elected or appointed member of a town board. Family member means an official's spouse, parent, child, sister, brother, stepparent, stepchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and a person with whom any of the foregoing share a committed relationship. Financial interest means any direct or indirect interest involving at least 10% ownership in a public or private economic entity, or direct or indirect ownership or control of real property. (Added by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(3) Disclosure. If an official or family member has a financial interest in an issue before the official's board, the official shall disclose that interest and:

(a) abstain from all board discussion debate, and voting on the issue until concluded, or

(b) request a determination be made on the question if the issue involves a financial conflict of interest sufficient to disqualify the member from participation.

(4) Advertised bid not a conflict. An official involved in the negotiation or award of a contract does not have a financial conflict of interest when the contract is the result of a publicly advertised bid procedure. (Added by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(5) Determination protocol. Upon disclosure and request, a determination is to be made by a majority where a quorum is present, excluding the member in question, , unless a greater number is required by rule, ordinance, or this charter. If the vote favors disqualification, the member is excused from all board discussion, debate, and voting on the issue until concluded and is recorded as abstaining. (Added by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(6) Record of conflict. The board chairperson shall make a written summary of any abstention under this section and file the summary with the town clerk. The clerk must maintain this record for a period of 5 years. (Added by vote of the people 6-11-02)

(7) Penalties. An official who violates any of the provisions of § 12.01 forfeits office and is ineligible for a period of 5 years thereafter to hold any town office or position. The procedures for determination of violation are governed by: (Amended by vote of the people 11-7-17)

(a) § 2.09 applies to town council members;

(b) § 4.07 applies to school committee members;

(c) § 2.07 applies to council appointees.

(Added by vote of the people 6-11-02)

(8) Rights retained. An official who is excused from an issue due to the provisions of this section retains the right to such participation as is afforded members of the public. (Added by vote of the people 6-11-02)

## **§ 12.02. Code of ethics and prohibited conduct.**

(1) Equal opportunity. No person may be appointed to or removed from, or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of race, gender, age, nationality, handicap, sexual orientation, political or religious opinions or affiliations. (Amended by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(2) Impartiality. No person may willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations. (Amended by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(3) Wrongful monetary consideration. No person who seeks appointment or promotion with respect to any town position or appointive town administrative office may directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with any test, appointment, proposed appointment, promotion or proposed promotion. (Amended by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(4) Political solicitation. No town official may directly or indirectly, orally, by letter or otherwise solicit or assist in soliciting from any person in the employ of the town any assessment, subscription or contribution for any political party or political purpose whatever. (Amended by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(5) Withholding information. With the exception of information which is confidential by statute, no town official may withhold information of any nature relevant to a matter before any board. (Added by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(6) Use of public resources. No town official may use public resources that are not available to the general public for private or personal gain, e.g. town staff time, equipment, supplies or facilities. (Added by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(7) Gifts and favors. No town official may, by virtue of public office or position, take advantage of services or opportunities for personal gain that are not available to the public in general. Examples of services or opportunities for personal gain are gifts of any kind, favors, and promises of future gifts or gain. (Added by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

(8) Penalties. Any person who violates any of the provisions of § 12.02 shall forfeit office or position and is ineligible for a period of 5 years thereafter to hold any town office or position. The procedures for determination of violation are governed by: (Amended by vote of the people 11-7-17)

(a) § 2.09 applies to town council members;

(b) § 4.07 applies to school committee members;

(c) § 2.07 applies to council appointees;

(d) § 3.04 applies to appointees of the town manager.

(Amended by vote of the people 6-11-02)

## **§ 12.03. Summons before town council or school committee.**

The clerks of the Supreme Judicial, Superior and District Courts may issue summonses for witnesses to attend and produce books, documents and papers at any meeting of the town council or school committee for the Town of Kittery at which a hearing is had in any matter regarding any alleged dereliction of duty by town officers,

officials or employees. (Amended by vote of the people 6-11-02; amended by vote of the people 11-5-13; Amended by vote of the people 11-7-17)

**§ 12.04. Oath of office.**

Every official of the town shall, before entering upon the duties of the office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk:

“I solemnly swear (or affirm) that I will support the Constitution and obey the laws of the United States and the State of Maine; that I will, in all respects, observe the provisions of the charter and ordinances of the Town of Kittery, and faithfully discharge the duties of the office of \_\_\_\_\_”

(Amended by vote of the people 10-4-94; amended by vote of the people 6-11-02; Amended by vote of the people 11-7-17)

**§ 12.05. Time of meetings.**

No town board, including but not limited to the town council, school committee, planning board and board of appeals, may conduct business after 10:00 PM. This deadline may be extended to not later than 11:00 PM by a majority vote of the members present unless a greater number is required by rule, ordinance, or this charter. (Added by vote of the people 6-11-02; amended by vote of the people